IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No.4176 of 2006

Mohan Shivji Bhanushali Petitioner

Vs.

The General Manager-in-charge,
Worli Dairy, Worli & ors.

Mr.S.S.Jani for petitioner.

Mr.R.M.Patne, AGP for Resp.Nos.1 and 3.

Mr.S.R.Mishra with Ms.Meena Kshirsagar for Resp.2.

CORAM: B.H.MARLAPALLE,J.

July 18, 2006.

P.C.

. Heard Mr.Jani, the larned counsel for the petitioner. In this petition filed under Article 227 of the Constitution the petitioner seeks to challenge the order passed by the Respondent No.3 on 26/10/2005 in Eviction Case No.23650/1241/2005. By the said order the Competent Authority under the Bombay Government (Premises) Eviction Act, 1955 directed that the Bombay Milk Schemes Staff Co-operative Canteen and Stores be evicted from Room No.2 in the compound of Worli Dairy at Worli, Mumbai-18 under

Section 4(1)(a)(iii) of the Bombay Government Premises (Eviction) Act, 1955. These were the proceedings which were initiated by the Manager of the Worli Dairy which is an undertaking of the Government of Maharashtra. The Bombay Milk Scheme Staff Co-operative Canteen and Stores which is impleaded as respondent no.2 in the present petition challenged the said impugned order in Misc. Appeal No.17 of 2006 before the learned Principal Judge of the City Civil Court who was pleased to dismiss the said appeal vide his judgment and order dated 28/2/2006. The Bombay Milk Scheme Staff Co-operative Canteen and Stores approached this Court in Writ Petition No.2512 of 2006 and the same was rejected summarily on 25th April 2006 and it appears that the present petitioner who had no concern with these proceedings submitted a representation to the present respondent no.1 who are the owners of the premises on 27/4/2006 and stated that he could not be evicted from the shop premises unless appropriate legal proceedings are initiated against him and the eviction order passed by the respondent no.3 and subsequently confirmed by this Court cannot be enforced against him.

. As per the petitioner he has been in occupation of the shop i.e. Unit No.6 from where he is carrying out a rationing shop and located in the premises covered by the order of eviction in Case No.23650/1241/2005, since 1986 and as per him he was put in possession of the said premises as an agent of the Court Receiver.

. There is no dispute that the respondent no.2 is a Society registered under the Maharashtra Co-operative Societies Act, 1960 and it is the original allottee of the premises under eviction as well as the shop which the petitioner claims to be occupying as an agent of the Court Receiver. The premises in question were allotted by the respondent no.1 in the year 1957-58 to the respondent no.2-Society and the allotment was continued as per the Government Resolution dated 13/6/1976.

. It is thus clear that either the petitioner is in occupation of the premises through respondent no.2 or as an agent of the Court Receiver. The eviction order passed and confirmed by the Court cannot be scuttled by him by challenging the same in this petition and in fact this challenge cannot be

entertained. If he has any other rights against the Bombay Milk Scheme Staff -Co-op. Canteen and Stores, he may seek to exercise the same by appropriate legal proceedings, if any. It is also seen from the record that S.C. Suit No.3608 of 1986 in which the Court Receiver was appointed and the petitioner claims to have been appointed as the agent by the said Court Receiver, came to be decided in terms of the Minutes of the Order dated 6/8/2002. The Suit was disposed as withdrawn and the Court Receiver appointed in Notice of Motion No.3251 of 1986 was discharged. He was directed to pay to the plaintiff a sum of Rs.21,380/- as per the final account. Thus the authority of the Court Receiver having been terminated, the petitioner ceased to have any legal right over suit shop which he claimed to be in possession.

. Hence the petition is rejected summarily.

. Certified copy is expedited.

(B.H.MARLAPALLE,J.)